

Department of Energy

§ 603.1310

If reports are prepared on a . . .	Expenditures are the sum of . . .
	(4) The net increase (or decrease) in the amounts owed by the recipient for goods and other property received, for services performed by employees, contractors, and other payees and other amounts becoming owed under programs for which no current services or performance are required.

§ 603.1270 Grant.

A legal instrument which, consistent with 31 U.S.C. 6304, is used to enter into a relationship:

(a) The principal purpose of which is to transfer a thing of value to the recipient to carry out a public purpose of support or stimulation authorized by a law of the United States, rather than to acquire property or services for the Department of Energy's direct benefit or use.

(b) In which substantial involvement is not expected between the DOE and the recipient when carrying out the activity contemplated by the grant.

§ 603.1275 In-kind contributions.

The value of non-cash contributions made by a recipient or non-Federal third parties toward cost sharing.

§ 603.1280 Institution of higher education.

An educational institution that:

(a) Meets the criteria in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001); and

(b) Is subject to the provisions of OMB Circular A-110, "Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations," as implemented by the Department of Energy at 10 CFR 600, Subpart B.

§ 603.1285 Intellectual property.

Patents, trademarks, copyrights, mask works, protected data, and other forms of comparable property protected by Federal law and foreign counterparts.

§ 603.1290 Participant.

A consortium member or, in the case of an agreement with a single for-profit entity, the recipient. Note that a for-profit participant may be a firm or a

segment of a firm (*e.g.*, a division or other business unit).

§ 603.1295 Periodic audit.

An audit of a participant, performed at an agreed-upon time (usually a regular time interval), to determine whether the participant as a whole is managing its Federal awards in compliance with the terms of those awards. Appendix A to this part describes what such an audit may cover. A periodic audit of a participant differs from an award-specific audit of an individual award (as defined in § 603.1220).

§ 603.1300 Procurement contract.

A Federal Government procurement contract. It is a legal instrument which, consistent with 31 U.S.C. 6303, reflects a relationship between the Federal Government and a State, a local government, or other non-government entity when the principal purpose of the instrument is to acquire property or services for the direct benefit or use of the Federal Government. See the more detailed definition of the term "contract" at 48 CFR 2.101.

§ 603.1305 Program income.

Gross income earned by the recipient or a participant that is generated by a supported activity or earned as a direct result of a TIA. Program income includes but is not limited to: income from fees for performing services; the use or rental of real property, equipment, or supplies acquired under a TIA; the sale of commodities or items fabricated under a TIA; and license fees and royalties on patents and copyrights. Interest earned on advances of Federal funds is not program income.

§ 603.1310 Program official.

A Federal Government program manager, project officer, scientific officer, or other individual who is responsible for managing the technical program

§ 603.1315

being carried out through the use of a TIA.

§ 603.1315 Property.

Real property, equipment, supplies, and intellectual property, unless stated otherwise.

§ 603.1320 Real property.

Land, including land improvements, structures and appurtenances thereto, but excluding movable machinery and equipment.

§ 603.1325 Recipient.

An organization or other entity that receives a TIA from DOE. Note that a for-profit recipient may be a firm or a segment of a firm (*e.g.*, a division or other business unit).

§ 603.1330 Supplies.

Tangible property other than real property and equipment. Supplies have a useful life of less than one year or an acquisition cost of less than \$5,000 per unit.

§ 603.1335 Termination.

The cancellation of a TIA, in whole or in part, at any time prior to either:

- (a) The date on which all work under the TIA is completed; or
- (b) The date on which Federal sponsorship ends, as given in the award document or any supplement or amendment thereto.

§ 603.1340 Technology investment agreement.

A TIA is a special type of assistance instrument used to increase involvement of commercial firms in the DOE research, development and demonstration (RD&D) programs. A TIA, like a cooperative agreement, requires substantial Federal involvement in the technical or management aspects of the project. A TIA may be either a type of cooperative agreement or a type of assistance transaction other than a cooperative agreement, depending on the intellectual property provisions. A TIA is either:

- (a) A type of cooperative agreement with more flexible provisions tailored for involving commercial firms (as distinct from a cooperative agreement subject to all of the requirements in 10

10 CFR Ch. II (1–1–09 Edition)

CFR Part 600), but with intellectual property provisions in full compliance with the DOE intellectual property statutes (*i.e.*, Bayh-Dole statute and 42 U.S.C. §§ 2182 and 5908, as implemented in 10 CFR 600.325); or

- (b) An assistance transaction other than a cooperative agreement, if its intellectual property provisions vary from the Bayh-Dole statute and 42 U.S.C. §§ 2182 and 5908, which require the Government to retain certain intellectual property rights, and require differing treatment between large businesses and nonprofit organizations or small businesses.

APPENDIX A TO PART 603—APPLICABLE FEDERAL STATUTES, EXECUTIVE ORDERS, AND GOVERNMENT-WIDE REGULATIONS

Whether the TIA is a cooperative agreement or a type of assistance transaction other than a cooperative agreement, the terms and conditions of the agreement must provide for recipients' compliance with applicable Federal statutes, Executive Orders and Government-wide regulations. This appendix lists some of the more common requirements to aid in identifying ones that apply to a specific TIA. The list is not intended to be all-inclusive, however; the contracting officer may need to consult legal counsel to verify whether there are others that apply (*e.g.*, due to a provision in the appropriations act for the specific funds in use or due to a statute or rule that applies to a particular program or type of activity).

A. CERTIFICATIONS

All financial assistance applicants, including applicants requesting a TIA must comply with the prohibitions concerning lobbying in a Government-wide common rule that the DOE has codified at 10 CFR part 601. The "List of Certifications and Assurances for SF 424(R&R)" on the DOE Applicant and Recipient page at <http://grants.pr.doe.gov> includes the Government-wide certification that must be provided with a proposal for a financial assistance award, including a TIA.

B. ASSURANCES THAT APPLY TO A TIA

Currently the DOE approach to communicating Federal statutes, Executive Orders and Government-wide regulations is to provide potential applicants a list of "National Policies Assurances to be Incorporated as Award Terms" in the program announcement (This list is available on the Applicant and Recipient Page at <http://grants.pr.doe.gov> under Award Terms). The contracting officer